

STATE OF WASHINGTON



OF OFFICE OF
INSURANCE COMMISSIONER

In the Matter of)	
)	Order No. D04-113
The Heritage Foundation,)	
An Entity Holding a Certificate)	Consent Order
Of Exemption.)	Imposing a Fine
)	
)	
)	

Facts:

1. The Heritage Foundation holds a certificate of exemption pursuant to RCW 48.38.010. That certificate has been suspended since April 2, 2004.
2. The Heritage Foundation failed to file any annual report for 2002. As a result, on April 21, 2003, the OIC suspended the Foundation's certificate of exemption for one year or further order of the OIC, whichever comes first, by suspension order G-2003-45.
3. The Heritage Foundation failed to timely file its annual report for 2003 by the due date, March 1, 2004. On April 2, 2004, the Insurance Commissioner issued a second order of suspension, G-2004-14. Like the first order of suspension, this second order was to remain in effect for one year or further order by the OIC, whichever came first. It superceded the first order of suspension.
4. On July 23, 2003, the Heritage Foundation issued an annuity in Washington State, in the amount of \$100,000.

Conclusions of Law:

1. Failure to file a 2002 annual report was a violation of RCW 48.38.010(10)(a), for which the OIC may in addition to suspension of the Foundation's certificate of exemption, levy a fine in accordance with RCW 48.38.050(2).

2. Failure to file its 2003 annual report timely was a violation of RCW 48.38.010(10)(a), for which the Insurance Commissioner may in addition to suspension of the Foundation's certificate of exemption, levy a fine in accordance with RCW 48.38.010(10)(a).
3. Issuance of an annuity while its certificate of exemption was suspended was a violation of order of suspension G-2003-45, which specifically provided that "the suspension is applicable to the sale, solicitation or issuance of any new charitable gift annuities in the state of Washington."
4. Issuance of an annuity while its certificate of exemption was suspended was also a violation of RCW 48.05.030(1), which provides that no person shall act as an insurer in this state and other than as authorized by a certificate of authority issued to it by the Insurance Commissioner and then in effect except as to such transactions as are expressly otherwise provided for in this code.

Consent to Order:

The Heritage Foundation consents to the entry of this order and to payment of a fine in the amount of \$22,500 within thirty days of the entry of this order. If the fine is not timely paid in full, this will constitute grounds for the revocation of the presently suspended certificate of exemption held by the Heritage Foundation. It will also result in recovery of the fine in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

THE HERITAGE FOUNDATION

Printed Name	_____
Printed Corporate Title	_____
Date Signed	_____

Order:

Pursuant to RCW 48.38.050, the Insurance Commissioner imposes a fine upon the Heritage Foundation in the amount of \$22,500 (twenty-two thousand five hundred dollars and no/100). This fine is to be paid in full by thirty days after this order is entered. Failure to pay the fine timely and in full will constitute grounds for revocation of the presently suspended certificate of exemption held by the Heritage Foundation in the state of Washington. It will also result in a civil action to recover the amount of the fine,

brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.

ENTERED AT TUMWATER, WASHINGTON, this ____ of _____,
2004.

MIKE KREIDLER
Insurance Commissioner

By _____
William Kirby
Legal Affairs Division